

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

VS.

ELDEN BRANNAN

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CAUSE NO. 2:22-184

SECOND MOTION IN LIMINE

**#3: A MOTION TO LIMIT LAY WITNESS TESTIMONY REGARDING
THE ITEM IN QUESTION**

The government intends to call Mr. Brannan’s sister, who first alerted law enforcement to the item in question. Mr. Brannan expects that the government will elicit testimony that she called it a “pipe bomb” to officers. This witness should be prohibited from calling the item a “pipe bomb” both in the present as she testifies and also referring to what she called it at the time, as she is not being called as an expert witness. She is not qualified to opine on what the item in fact was, and allowing her to call it a “pipe bomb” is improper lay witness testimony. *See* Fed. R. Evid. 701, 702. This testimony would also be prejudicial and result in confusion. *See* Fed. R. Evid. 403. Indeed, in this case, both the government and Mr. Brannan will be calling expert witnesses, each with different opinions, to testify about what they believe they item was.

WHEREFORE, PREMISES CONSIDERED, Mr. Brannan reserves the right to supplement this motion. Mr. Brannan requests that the Court grant his motions in limine.

Respectfully submitted,

MARJORIE A. MEYERS
Federal Public Defender
Southern District of Texas No. 3233
Texas State Bar No. 14003750

By /s/ Rachel Elizabeth Braver
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CERTIFICATE OF SERVICE

I certify that on November 8, 2022 a copy of this document was served via CM/ECF on Assistant United States Attorney Joel Dunn, 800 N. Shoreline, Suite 500, Corpus Christi, Texas 78401.

/s/ Rachel Elizabeth Braver
RACHEL ELIZABETH BRAVER

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Defendant's Motion in Limine #3

is hereby

GRANTED DENIED.

SO ORDERED THIS _____ DAY OF _____, 2022.

Hon. David S. Morales
United States District Judge